

Lost River Subwatershed Agreement Supplement #4

See pages i-vii following this page

Note: The Final Watershed Agreement will be available via the West Virginia NRCS website once it is signed. This copy is provided for informational purposes.

Supplemental
Subwatershed Agreement No. 4
between the
Potomac Valley Conservation District
Hardy County Commission
West Virginia State Conservation Committee
(Referred to herein as Sponsors)
and the
Natural Resources Conservation Service
United States Department of Agriculture
(Referred to herein as NRCS)

Whereas, the Work Plan for the Lost River Subwatershed, State of West Virginia, executed by the Sponsors named therein and NRCS, became effective on the 11th day of February, 1975; and
Whereas, Supplemental Agreement No. 1 for said Subwatershed that added the West Virginia State Soil Conservation Committee (now the West Virginia State Conservation Committee) as a Sponsor, executed through an Exchange of Correspondence by the Sponsors and NRCS became effective on the 15th day of November, 1989; and
Whereas, Supplemental Agreement No. 2 for said Subwatershed that revised the land treatment program, executed by the Sponsors and NRCS became effective on the 2nd day of July, 1991; and

Whereas, Supplemental Agreement No. 3 for said Subwatershed that modified Site 10 to include 400 acre-feet of rural water supply storage executed by the Sponsors and NRCS became effective on the 10th day of May, 2001; and

Whereas, in order to carry out the Work Plan for said Subwatershed, it has again become necessary to modify said Subwatershed Agreement as supplemented; and

Whereas, the responsibility for administration of the Flood Control Act (Public Law 534), as amended, has been assigned by the Secretary of Agriculture to the NRCS; and

Whereas, a Supplemental Work Plan which modified the Work Plan, as supplemented, dated February 11, 1975, for said Subwatershed has been developed through the cooperative efforts of the Sponsors and the NRCS;

Now, therefore, the Secretary of Agriculture through the NRCS and the Sponsors agree upon the following modifications of the terms, conditions, and stipulations of the Subwatershed Agreement;

- (1) The purpose of Site 16 will be changed from a multiple-purpose flood control and recreational impoundment to a multiple-purpose flood control and water supply impoundment.
- (2) The recreational pool at Site 16 will be converted to 400 acre-feet of rural water supply storage.
- (3) All recreational facilities, other than those necessary for incidental use, will be deleted from the Work Plan.
- (4) Project costs and benefits will be re-evaluated using 2006 prices.
- (5) Site 23 will be deleted from the Work Plan.

(6) Paragraph Number 1 (1974 Work Plan Agreement) is modified to read as follows:

1. The Sponsors will acquire such landrights as will be needed in connection with the works of improvement. The percentage of this cost to be borne by the Sponsors and the NRCS are as follows:

Works of Improvement	Sponsors (percent)	NRCS (percent)	Estimated Land Rights Cost ^{1/} (Dollars)
<u>Multiple-Purpose Site 16</u>			
Payment to landowners for about 211 acres of fee take acquisition for flood control	25	75	\$2,119,000
Approximately 10 acres of U.S.D.A Forest Service land	0	0	\$0
Payment to landowners for about 40 acres for flowage easements	25	75	\$80,000
Payment to landowners for about 10 acres of fee take acquisition for water supply	100	0	\$90,000
Legal fees, survey costs, and other costs	Percentage varies, see specific agreement line items		\$134,500

^{1/} Landrights cost share rates established in project correspondence appended to FEIS.

(7) Paragraph Number 2 is modified to read as follows:

2. The Sponsors will provide relocation assistance advisory services, make the relocation payments to displaced persons, and otherwise comply with the real property acquisition policies contained in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646, 84 Stat. 1894) effective as of January 2, 1971, and the Regulations issued by the Secretary of Agriculture pursuant thereto. The real property acquisition policies contained in said Act shall be followed in all cases.

The cost of relocation payments will be shared by the Sponsors and NRCS as follows:

Item	Sponsors (Percent)	NRCS (Percent)	Estimated Relocation Payment Costs (Dollars)
Relocation Payments	16.9	83.1	\$67,500

(8) Paragraph Number 4 is modified to read as follows:

4. The percentage of construction costs of the structural works of improvement to be paid by the Sponsors and by NRCS are as follows:

Works of Improvement	Sponsors ^{1/} (percent)	NRCS ^{1/} (percent)	Estimated Construction Cost (Dollars)
Multiple-Purpose Site 16, Flood Control purpose	0	100	\$17,817,900
Multiple-Purpose Site 16, Water Supply Purpose	100	0	\$1,985,700

^{1/} Cost share rates consistent with Supplement #3 watershed agreement

- (9) Paragraph Number 6 is modified to read as follows:

6. The percentages of the engineering costs to be borne by the Sponsors and by NRCS are as follows:

Works of Improvement	Sponsors ^{1/} (percent)	NRCS ^{1/} (percent)	Estimated Engineering Cost (Dollars)
Multiple-Purpose Site 16, Flood Control purpose	0	100	\$1,247,300
Multiple-Purpose Site 16, Water Supply Purpose	100	0	\$139,000

^{1/} Cost share rates consistent with Supplement #3 watershed agreement

- (10) Paragraph Number 7 is modified to read as follows:

7. The Sponsors and NRCS will each bear the costs of project administration which they incur for Site 16, estimated to be \$37,700 and \$338,500, respectively.

- (11) Paragraph 20, as follows, is added to the Subwatershed Agreement:

20. An Emergency Action Plan (EAP) is required by the NRCS and WVDEP Division of Water and Waste Management – Dam Safety Section pursuant to West Virginia State Code, 47-34-15.6. The preparation of the plan is the responsibility of the Sponsors. Once the plan is approved by the regulatory agency, the Sponsors will implement the plan and review it annually.

- (12) Paragraph 21, as follows, is added to the Subwatershed Agreement:

21. The term of this agreement is for the expected life of the project (100 years) and does not commit the NRCS to assistance of any kind beyond that point unless agreed to by all parties.

- (13) Paragraph 22, as follows, is added to the Subwatershed Agreement:

22. The Sponsors will be responsible for the operation, maintenance, and replacement of the works of improvement by actually performing the work or arranging for such

work, in accordance with the agreements to be entered into before issuing invitations to bid for construction work. The term of this new O&M agreement will be for a period of 100 years, which is the life expectancy of the project.

(14) Paragraph 23, as follows, is added to the Subwatershed Agreement:

23. The Sponsors agree to participate in and comply with applicable federal floodplain management and flood insurance programs before construction starts.

The Sponsors and NRCS further agree to all other terms, conditions, and stipulations of said Subwatershed Agreement, as supplemented, not modified herein.

POTOMAC VALLEY CONSERVATION DISTRICT
500 East Main Street
Romney, West Virginia 26757-5174

By: _____
Title: Chairman
Date: _____

The signing of this agreement was authorized by a resolution of the governing body of the Potomac Valley Conservation District adopted at a meeting held on _____.

By: _____

Date: _____

WEST VIRGINIA STATE CONSERVATION COMMITTEE
Guthrie Agricultural Center
Charleston, WV 25305

By: _____
Title: Chairman
Date: _____

By: _____

Date: _____

HARDY COUNTY COMMISSION
204 Washington St., Room 111
Moorefield, WV 26836

By: _____
Title: President, Hardy County
Commission
Date: _____

The signing of this agreement was authorized by a resolution of the governing body of the Hardy County Commission adopted at a meeting held on _____.

By: _____

Date: _____

Natural Resources Conservation Service
UNITED STATES DEPARTMENT OF AGRICULTURE

Approved by:

KEVIN WICKEY
State Conservationist

Date: _____

**Supplemental Work Plan No. 4
and
Final Environmental Impact Statement
for the
Lost River Subwatershed
of the
Potomac River Watershed
Hardy County, West Virginia**

INTRODUCTION

The Lost River Subwatershed Work Plan, for watershed protection and flood control, was approved for operations on February 11, 1975, under the authority of the Flood Control Act, Public Law 78-534. Sponsors of the project are Hardy County Commission, Potomac Valley Conservation District, and the West Virginia State Conservation Committee.

The Work Plan, prepared in October 1974, includes provisions for land treatment measures covering 94,750 acres, four single-purpose flood control dams, and one multiple-purpose flood control/recreation dam. A Final Environmental Impact Statement (FEIS) was issued in October 1974, covering the work to be installed as described above. For a description of project elements, alternatives, environmental resources, and projected impacts, the 1974 FEIS should be consulted. This document is available from the NRCS at the following address:

USDA – Natural Resources Conservation Service
75 High Street, Room 301
Morgantown, West Virginia 26505

The 1974 Work Plan has been supplemented three times to add sponsors, change the land treatment program, and add rural water supply to one structure. Currently, land treatment measures have been applied on 95,708 acres and three of the five originally planned dams; Site